

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Lifeline and Link Up Reform and	)	WC Docket No. 11-42
Modernization	)	
	)	
Federal-State Board on Universal Service	)	CC Docket No. 96-45
	)	

**PETITION FOR WAIVER OF  
SECTION 54.410(f) OF THE COMMISSION’S RULES**

**I. INTRODUCTION AND SUMMARY**

Budget PrePay, Inc. (“Budget PrePay” or the “Company”), pursuant to Section 1.3 of the rules of the Federal Communications Commission (“FCC” or the “Commission”) hereby petitions for a limited, one-time waiver of 47 C.F.R. § 54.410(f) with respect to the customers who enrolled in Budget PrePay’s Lifeline program between January 4, 2012 and May 31, 2012 (“Pre-June 1 Customers”). All of the Pre-June 1 Customers were enrolled using Budget PrePay’s comprehensive Lifeline Certification Form which set forth and/or collected substantially all of the certifications and information later required by Section 54.410(d) of the Commission’s rules, as adopted in the *Lifeline Reform Order*.<sup>1</sup> A limited waiver is warranted because the purposes of Section 54.410(f) have already been served by Budget PrePay’s procedures with respect to the limited set of customers signed up between January 4, 2012 and May 31, 2012. Furthermore, grant of the requested one-time waiver

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<sup>1</sup> See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, 12-23, CC Docket No. 96-45, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

will avoid imposition of duplicative, burdensome, and confusing requests to Pre-June 1 Customers that they recertify their eligibility within months of their initial enrollment.

## **II. BACKGROUND**

In the *Lifeline Reform Order*, the Commission promulgated a series of rules to reform the low-income programs supported by the federal Universal Service Fund (“USF”) and to detect and prevent waste, fraud and abuse of the USF program. Among those important reforms is a requirement that Eligible Telecommunications Carriers (“ETCs”) obtain from all of their enrolled Lifeline customers annual certifications that the customers remain eligible to receive Lifeline-supported services. Specifically, the *Lifeline Reform Order* requires Lifeline providers to obtain from each customer enrolled as of June 1, 2012, a sworn certification containing the specific materials set forth at Section 54.410(d).<sup>2</sup>

## **III. THE LIFELINE CERTIFICATION FORM USED BY BUDGET PREPAY BETWEEN JANUARY 4, 2012 AND MAY 31, 2012 MET SUBSTANTIALLY ALL THE REQUIREMENTS OF 47 C.F.R § 54.410.**

Budget PrePay’s current Lifeline Certification Form (“Post-June 1 Certification Form”) fully complies with Section 54.410(d) and was included as part of the Company’s Compliance Plan which was approved by the Commission in an Order released May 25, 2012.<sup>3</sup> Between January 4, 2012 and May 31, 2012, Budget PrePay utilized a Lifeline Certification Form (“Pre-June 1 Certification Form”) which contained nearly all of the information and certifications now required by Section 54.410(d).

Budget PrePay’s Pre-June 1 Certification Form, a copy of which is attached as Exhibit A, collected the following information now required by 47 C.F.R. § 54.410(d):

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<sup>2</sup> See *id.* ¶ 132; 47 C.F.R. §§ 410(d) and (f).

<sup>3</sup> See Public Notice, WC Docket Nos. 09-197 and 11-42, DA 12-828 (rel. May 25, 2012).

- the subscriber’s full name (47 C.F.R. § 54.410(d)(2)(i));
- the subscriber’s full residential (street) address (47 C.F.R. § 54.410(d)(2)(ii));
- if applicable, the subscriber’s “Shelter Resident Room/Bed No., the shelter/facility name, and a signed and dated verification from the manager of that facility;
- the subscriber’s date of birth (“DOB”) (47 C.F.R. § 54.410(d)(2)(v)),
- the last four digits of the subscriber’s Social Security number (“SSN”) (47 C.F.R. § 54.410(d)(2)(vi));
- if qualifying under program-based criteria, the name of the qualifying assistance program(s) in which the subscriber participates (47 C.F.R. § 54.410(d)(2)(vii));
- if qualifying under income-based criteria, proof of income and a chart to calculate the applicable income level based on the number of individuals in his or her household (47 C.F.R. § 54.410(d)(2)(viii)).

In addition, the Pre-June 1 Certification Form required the subscriber to certify:

- under penalty of perjury that the subscriber is a current recipient of the qualifying program(s) (47 C.F.R. § 54.410(d)(3)(i));
- that the subscriber will immediately notify Budget PrePay if he or she ceases to participate in the program(s) listed on the Certification Form (see 47 C.F.R. § 54.410(d)(3)(ii)).<sup>4</sup> Furthermore, the Pre-June 1 Certification Form required the customer to separately initial this certification.

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<sup>4</sup> In this regard, Budget PrePay’ Pre-June 1 Certification Form required stricter compliance than the Commission’s current rule, which requires such notification within 30 days. *See* 47 C.F.R. § 54.410(d)(3)(ii).

- that the subscriber is over the age of 18 and will not receive another Lifeline discount from Budget PrePay or any other provider (see 47 C.F.R. § 54.410(d)(vi)). In addition, the Pre-June 1 Certification Form listed the names of other leading wireline and wireless Lifeline providers to maximize a prospective subscriber's understanding of the prohibition against taking duplicate service. Further, the Pre-June 1 Certification Form required the customer to separately initial this certification.
- that the subscriber must notify Budget PrePay if he or she, or another member of his or her household elects to receive the Lifeline discount on another phone line (wired or wireless), so that Budget PrePay may discontinue the Lifeline credit (see 47 C.F.R. §§ 54.410(d)(ii) and (d)(vi)). The Pre-June 1 Certification Form required the customer to separately initial this certification.

The Pre-June 1 Certification Form also required the prospective subscriber to:

- authorize Budget PrePay to access any records required to verify the subscriber's statements, to confirm the subscriber's eligibility, and to release any records required for the administration of the Lifeline program. The Pre-June 1 Certification Form required the customer to separately initial this requirement.
- acknowledge that he or she may be required to confirm continued eligibility for the Lifeline credit at any time and that failure to do so will result in termination of Lifeline benefits (47 C.F.R. § 54.410(d)(3)(ix)). The Pre-June 1 Certification Form required the customer to separately initial this requirement.

**IV. ANY DEFICIENCIES IN BUDGET PREPAY’S PRE-JUNE 1 CERTIFICATION FORM ARE NOT SIGNIFICANT AND CAN EASILY BE REMEDIED.**

The vast majority of the certifications, notifications and information requirements set forth in Section 54.410(d) are explicitly covered by Budget PrePay’s Pre-June 1 Certification Form. Some of the remaining items, as set forth below, are implicitly covered. The items not covered by the Pre-June 1 Certification Form are not significant and can readily and promptly be addressed.

The only currently effective requirement focused on program eligibility that is not included in the Pre-June 1 Certification Form is the requirement that a subscriber notify the provider within 30 days of moving to a new address.<sup>5</sup> Budget PrePay commits, as a condition to grant of the requested waiver, that it will provide notification to all Pre-June 1 Customers within thirty (30) days of grant of the waiver that such customers must notify Budget PrePay within 30 days of moving to a new address.

The remaining items covered by Section 410(d) do not pertain directly to program eligibility. Each of these items are already implicitly covered by Budget PrePay’s Pre-June 1 Certification Form, and thus, are not significant. In all events, Budget PrePay commits, as a condition to its waiver request, to notify all customers who enrolled from January 4 – May 31, 2012 of these additional items, as set forth below in the bullet points below, via a letter to be mailed within thirty (30) days after grant of its waiver, and then again six months after grant of its waiver.

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<sup>5</sup> See C.F.R. § 54.410(d)(3)(iv). Budget PrePay’s Terms and Conditions did require customers to notify Budget PrePay of any address change.

- The requirement in 47 C.F.R. § 54.410(d)(1)(iii) to provide the definition of a household as set forth in the *Lifeline Reform Order*. Budget PrePay notes that this requirement is not significant because this definition is narrower than the address-based definition that Budget PrePay used when signing up these subscribers;
- The requirement in 47 C.F.R. § 54.410(d)(1)(v) to inform consumers on the certification form that violation of the one-per-household rule would result in de-enrollment, and the requirement in 47 C.F.R. § 54.410(d)(ii) to inform consumers that only one Lifeline benefit is available per household are already implicit in the Pre-June 1 Certification Form certification that a customer cannot receive another discount, and that a customer must notify Budget if any member of the household signs up for another Lifeline discount so that Budget may discontinue the Lifeline credit.<sup>6</sup>
- The requirement in 47 C.F.R. § 54.410(d)(1)(iv) that the customer acknowledge that he or she would discontinue any other Lifeline service from any other provider -- which is implicit in the language set forth in the previous bullet point.<sup>7</sup>

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<sup>6</sup> For all of calendar year 2012, Budget PrePay has had in place a proprietary customer database system that validates all customer accounts – both new accounts and existing accounts -- in order to identify possible duplicates within Budget PrePay's customer database. This validation is designed to detect duplicate customers, whether wireline or wireless, by validating that the address entered is not associated with another current Lifeline account. Budget PrePay's system prohibits more than one supported Company service at each such residential address, unless (following implementation of the *Lifeline Reform Order*) the customer completes the household worksheet and demonstrates that there are two separate households at such address.

<sup>7</sup> In addition, these limitations are reinforced by the statement in Budget PrePay's advertising materials being used during the time when these subscribers were enrolled. All advertising materials stated, in part, as follows:

*Only one Lifeline credit per household, must be 18 years of age or older and head of household. (Emphasis added.)*

- 47 C.F.R. § 54.410(d)(1)(i)'s statement that Lifeline is a federal benefit and that willfully making false statements to receive benefits can result in fines, imprisonment, de-enrollment or being barred from the program; 47 C.F.R. § 54.410(d)(3)(viii)'s statement that providing false or fraudulent documentation in order to receive Lifeline benefits is punishable by law; 47 C.F.R. § 54.410(d)(vii)'s requirement that the customer acknowledge that the information in the certification form is true and correct to the best of the subscriber's knowledge; and 47 C.F.R. § 54.410(d)(1)(vi)'s requirement that customers be notified that the phone must be used only for the subscriber or his/her family's benefit, and cannot be resold.
- 47 C.F.R. § 54.405(e)(3)'s requirement that customers be notified that they will be de-enrolled if they do not use the service for 60 days. Budget PrePay has complied with this requirement since this rule became effective on June 1, 2012.
- Finally, Budget PrePay notes that 47 C.F.R. § 54.410(d)(2)(iii)'s requirement to ascertain whether a subscriber's address is temporary or permanent, and 47 C.F.R. § 54.410(d)(3)(v)'s requirement for the subscriber to certify that he or she is required to verify his or her temporary residential address every 90 days are not applicable because the temporary address verification requirement has not yet been approved by the Office of Management and Budget.

**V. RE-CERTIFICATION OF BUDGET PREPAY' SUBSCRIBERS FROM THE FIRST FIVE MONTHS OF 2012 WILL BE UNDULY BURDENSOME AND CAUSE SUBSTANTIAL CONFUSION WITHOUT HAVING A SIGNIFICANT IMPACT ON PREVENTING WASTE, FRAUD AND ABUSE.**

Budget PrePay's Pre-June 1 Certification Form captured the DOB and last four digits of the SSN, two key attributes driving the FCC's requirement for re-certification of

an ETC's Lifeline customer base prior to June 1, 2012. Budget PrePay already has the information necessary to populate the National Lifeline Accountability Database for all of its customers enrolled in 2012. Budget PrePay will re-certify all customers enrolled prior to January 1, 2012, in accordance with Section 410(f). In addition, Budget PrePay, if required by the Commission as a condition to grant of this Petition, will re-certify all customers enrolled from January 4, 2012 through May 31, 2012 on a rolling basis, based on each customer's anniversary date of enrollment.

Budget PrePay' initial efforts to re-certify its Pre-June 1 Customers so soon after their original enrollment/certification has resulted in subscriber confusion. Budget PrePay is concerned that active and eligible customers will have to be terminated simply because such customers fail to respond to the re-certification request because of confusion, lack of understanding, or frustration due to being asked to provide the required information so soon after their initial enrollment.

Furthermore, the cost to recertify these recently-certified end users will be excessive and far outweigh the benefits. Budget PrePay estimates that its costs will be similar to the costs identified by i-wireless, which estimated that it will cost \$2 million to re-certify the 154,000 customers that it signed up between January 1 and May 31, 2012.<sup>8</sup> That amounts to nearly \$13.00 per customer, and much more per non-eligible subscriber.

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<sup>8</sup> i-wireless Waiver Petition at 7 and i-wireless ex parte letter, filed August 17, 2012 at 1.



As documented above, Budget PrePay' Pre-June 1 Certification covered nearly all the disclosures and certifications required by Section 410(d). Under these circumstances, grant of the requested waiver would further the public interest.<sup>9</sup>

## **VI. CONCLUSION**

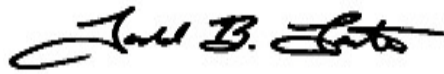
Budget PrePay urges the Commission to promptly grant its request for a limited, one-time waiver of 47 C.F.R. § 54.410(f) with respect to the customers who enrolled in Budget PrePay's Lifeline program between January 4, 2012 and May 31, 2012. All of the customers enrolled during this period were enrolled using Budget PrePay's comprehensive Pre-June 1 Certification Form which set forth and/or collected substantially all of the certifications and information later required by Section 54.410(d) of the Commission's rules, as adopted in the *Lifeline Reform Order*. A limited waiver is warranted because the purposes of Section 54.410(f) have already been served by Budget PrePay's procedures with respect to the limited set of customers signed up between January 4, 2012 and May 31, 2012. Furthermore, grant of the requested one-time waiver will avoid imposition of duplicative, burdensome, and confusing requests to existing Lifeline customers that they recertify their eligibility within months of their initial enrollment. Budget PrePay has

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<sup>9</sup> Generally, the Commission's rules may be waived if good cause is shown. *See* 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *See Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both: (i) special circumstances warrant a deviation from the general rule; and (ii) such deviation will serve the public interest. *See NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166.

begun and will continue to re-certify all existing Lifeline customers who were activated prior to January 4, 2012.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Todd B. Lantor". The signature is fluid and cursive, with a long horizontal stroke at the end.

Todd B. Lantor\*  
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October 25, 2012

# Exhibit A

Budget PrePay's  
Pre-June 1 Certification Form

PLEASE READ AND ACKNOWLEDGE YOU AGREE BY INITIALING EACH STATEMENT BELOW.

- I certify that I am over the age of eighteen, head of household and that I will only receive one Lifeline wireless connection at my household. I certify that I will not receive another Lifeline discount from Budget PrePay® or any other provider; including but not limited to the following Lifeline-supported service providers: Budget Home Phone, AT&T, Safelink, and Assurance Wireless.
- I understand that completion of this application does not constitute immediate approval for the Budget PrePay Lifeline Credit.
- I authorize Budget PrePay to access any records required to verify my statements herein, to confirm my eligibility, and to release any records required for the administration of the Lifeline Credit program. I agree to notify Budget PrePay immediately if I cease to participate in the programs I listed below.
- I understand that I may be required to verify my continued eligibility for the Lifeline Credit at any time and that failure to do so will result in termination of the Lifeline Credit benefits. I understand that I must notify Budget PrePay if I, or another member of my household, elects to receive the Lifeline discount on another phone line (wired or wireless) so that Budget PrePay may discontinue my Lifeline Credit.

ELIGIBILITY

Please check all that apply:

- Low Income Home Energy Assistance Program

Supplemental Security Income (SSI)

Federal Housing Assistance (Section 8)

Food Stamps

Temporary Assistance for Needy Families

Medicaid

National School Lunch (free program only)

OR Check below:

INCOME QUALIFICATION:

Persons whose household income is at or below 135% of national poverty level qualify for Lifeline & LinkUp credit. This option is only available at a Budget Mobile retail location. Customer must provide proof of income.

Persons in HH --- 135% Annual Income (at or below)			
(1) \$14,702	(4) \$30,173	(7) \$45,644	Add \$5,157 for each additional person.
(2) \$19,859	(5) \$35,330	(8) \$50,801	
(3) \$25,016	(6) \$40,487		

Should subscriber currently reside in a shelter or multi-resident facility, Budget requires the Manager, of that facility, to verify subscriber’s current residence by signing the Budget Mobile Lifeline Certification Form.

Shelter/Facility Name:

Shelter/Facility Manager’s Signature:

Date:

PERSONAL INFORMATION

Please fill out the following information.

First Name:

Middle Name:

Last Name:

Social Security Number (Last 4 digits only):

Date of Birth (mm/dd/yyyy):

Street Address:

Shelter Resident Room/Bed No.:

Apt. No.:

Name of Apt. Complex:

City:

State:

Zip Code:

Email Address:

Alternate Contact Number:

I understand that Link-Up support reduces the one-time cost associated with initiating telephone service and certify that my household has only received the Link-Up discount once. I affirm that I acknowledge that I may be required to pay an activation fee by Budget PrePay®. I certify, under penalty of perjury, that I am a current recipient of the above Lifeline/Link Up-qualifying program(s).

Signature

Date

FOR AUTHORIZED EMPLOYEE USE ONLY

Shelter/Multi Resident Authorization Code

Customer Mobile Phone Number

Customer Account Number

Store Representative Signature

Date